

**DEPARTMENT OF TRANSPORTATION - District 4 Toll Bridge Program**

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Kiewit-FCI-Manson, JV  
220 Burma Rd.  
Oakland, CA 94607

June 27, 2007

Contract No. 04-0120E4  
04-SF-80-13.4, 13.8  
SAS T1 & E2 Foundations  
SFOBB-ESSSP

Attn: Mr. Dan Proctor

Letter No. 05.003.01-003235

Subject: Response to Transmittal No. 566, Revision No. 00 (Initial Notice of Potential Claim #06-062007 - TBS' Welder Trainee Issue)

Dear Dan,

The Department has received Kiewit-FCI-Manson (KFM) Transmittal No. 566, Revision No. 00, dated June 20, 2007, which provided the Contractor's initial notice of potential claim (NOPC) No. 06 regarding alleged impacts to Trans Bay Steel Corp. (TBS) steel pipe piling production work performed using unqualified trainee welders due to the Department's rejection of this work.

Production work at TBS was completed by December 14, 2006. During the Weekly Meeting on January 2, 2007, the Department notified KFM that CCO No. 39 would not be issued. The Department's Letter No. 2147, dated October 24, 2006 transmitted the Department's final offer for CCO No. 39 and referred KFM to the requirements of Section 9-1.04, "Notice of Potential Claim," of the amended Standard Specifications. The Department's Letter No. 2955, dated March 12, 2007, informed KFM that the Department considered the Weekly Meeting Agenda's issue pertaining TBS to be closed with no further discussion, and again referred KFM to the requirements of Section 9-1.04, "Notice of Potential Claim," of the amended Standard Specifications, pertaining to timely notice of disputes arising under the contract.

The submitted initial notice of potential claim was not submitted within 5 days from the date the dispute first arose, therefore, it fails to comply with the requirements in Section 9-1.04 of the July 1999 Standard Specifications, which was amended in Section 1 of this project's Special Provisions.

In Accordance with Section 9-1.04 "Notice of Potential Claim" of the amended Standard Specifications, failure of the Contractor to conform to specified dispute procedures shall constitute a failure to pursue diligently and exhaust the administrative procedures in the contract and is deemed as the Contractor's waiver of the potential claim and a waiver of the right to a corresponding claim for the disputed work in the administrative claim process in conformance with Section 9-1.07B "Final Payment of Claims", and shall operate as a bar to arbitration pursuant to Section 10240.2 of the California Public Contract Code.

If you have any question, please contact this office.

Sincerely,

Pedro J. Sanchez  
Resident Engineer

cc: R. Morrow  
P. Sanchez  
M. Woods  
M. Vilcheck

file: 05.003.01, 62.001.06